UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/841,644	04/23/2001	David de Andrade	40004572-0005-002	6427

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EXAMINER
SALTARELLI, DOMINIC D

ART UNIT	PAPER NUMBER
2623	

MAIL DATE	DELIVERY MODE
12/20/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

PTOL-90A (Rev. 04/07)

	Application No.	Applicant(s)
Office Action Summary	09/841,644	ANDRADE ET AL.
	Examiner	**Art Unit**	
	Dominic D. Saltarelli	2623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>29 October 2007</u>.

2a)☐ This action is **FINAL.**   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-40* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-40* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.

5) ☐ Notice of Informal Patent Application

6) ☐ Other: _____.

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1.   A request for continued examination under 37 CFR 1.114, including the fee set

forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this

application is eligible for continued examination under 37 CFR 1.114, and the fee set

forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action

has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on October

29, 2007 has been entered.

Response to Arguments

2.   Applicant's arguments with respect to claims 1-40 have been considered but are

moot in view of the new grounds of rejection.

Claim Rejections - 35 USC § 102

3.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that

form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by
> another filed in the United States before the invention by the applicant for patent or (2) a patent
> granted on an application for patent by another filed in the United States before the invention by the
> applicant for patent, except that an international application filed under the treaty defined in section
> 351(a) shall have the effects for purposes of this subsection of an application filed in the United States
> only if the international application designated the United States and was published under Article 21(2)
> of such treaty in the English language.

4.   Claims 1, 2, 5-9, 11, 12, 15-19, 21, 22, 25-28, 30, 31, 34-37, 39, and 40 are

rejected under 35 U.S.C. 102(e) as being anticipated by Kikinis (5,929,849).

Regarding claims 1, 11, 21, 28, 30, 37, and 39, Kikinis discloses, in an

interactive television (TV) environment, a method and system comprising

recognizing patterns in an unmodified broadcast data stream and prior to

broadcasting, automatically inserting an interactive TV trigger into the broadcast

data stream based on the recognized elements (col. 10, lines 18-67).

Regarding claim 2, Kikinis discloses the method of claim 1, further

comprising pre-inserting the interactive TV trigger into any stored content that will

constitute the broadcast data stream (col. 10, lines 6-17).

Regarding claims 5, 6, 25, 26, 34, and 35, Kikinis discloses the method

and system of claims 2, 21, and 30, wherein the patterns include video and text

elements (col. 10, lines 46-55).

Regarding claims 7, 27, and 36, Kikinis discloses the methods and system

of claims 2, 21, and 30, wherein the automatically inserting of the interactive TV

trigger includes automatically inserting the interactive TV trigger into the

broadcast data stream based on the recognized patterns (col. 10, lines 56-67).

Regarding claims 8 and 18, Kikinis discloses the method and system of

claims 1 and 11, further comprising delivering the broadcast data stream with the

inserted interactive TV trigger to one or more receivers for display (set top box

11, col. 5, lines 27-33).

Regarding claims 9 and 19, Kikinis discloses the method and system of claims 1 and 18, wherein the automatically inserting of the interactive TV trigger includes automatically inserting the interactive TV trigger into the broadcast data stream within a receiver (for the generation of a recorded media with embedded URLs, col. 11, lines 41-55).

Regarding claim 12, Kikinis discloses the system of claim 11, further comprising a recognizing unit to recognize one or more patterns in the broadcast data stream (col. 10, lines 56-67).

Regarding claims 15 and 16, Kikinis discloses the system of claim 12, wherein the patterns include video and text elements (col. 10, lines 46-55).

Regarding claim 17, Kikinis discloses the system of claim 12, wherein the automatically inserting of the interactive TV trigger includes automatically inserting the interactive TV trigger into the broadcast data stream based on the recognized patterns (col. 10, lines 56-67).

Regarding claims 22, 31, and 40, Kikinis discloses the method and system of claims 21, 30, and 39, further comprising passing the broadcast data stream to one or more receivers if the media asset does not match with an interactive

element (all video is broadcast regardless of whether a URL has been associated

or not, col. 7, lines 28-37).

Claim Rejections - 35 USC § 103

5.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

6.   Claims 3, 4, 13, 14, 23, 24, 32, and 33 are rejected under 35 U.S.C. 103(a) as

being unpatentable over Kikinis in view of Portuesi (5,774,666, of record).

Regarding claims 3, 4, 13, 14, 23, 24, 32, and 33, Kikinis discloses the

method and system of claims 2, 12, 21, and 30, but fails to disclose the patterns

include voice and other audio.

In an analogous art, Portuesi discloses a method and system for inserting

interactive elements into a broadcast stream, wherein voice and other audio

content are recognized and associated with an interactive element (col. 5, lines

5-12).

It would have been obvious at the time to a person of ordinary skill in the

art to modify the method and system of Kikinis to include associating the

interactive elements with voice and other audio, as taught by Portuesi, for the

benefit of broadening the applicability of method and system taught by Kikinis so

that an advantageously wider variety of content may be associated with

interactive elements.

7.   Claims 10, 20, 29, and 38 are rejected under 35 U.S.C. 103(a) as being

unpatentable over Kikinis.

Regarding claims 10, 20, 29, and 38, Kikinis discloses the methods and

system of claims 1, 11, 28, and 37, but fails to discloses the interactive TV trigger

includes an Advandced Television Enhancement Forum (ATVEF) trigger.

It is notoriously well known in the art to enhance television broadcasts

using standardized ATVEF triggers.

It would have been obvious at the time to a person of ordinary skill in the

art to modify the method and system disclosed by Kikinis to include ATVEF

triggers, for the benefit of using a standardized means of content enhancement

that is specifically for broadcast programming.

Conclusion

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Dominic D. Saltarelli whose telephone number is (571)

272-7302. The examiner can normally be reached on Monday - Friday 9:00am -

6:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, John Miller can be reached on (571) 272-7353. The fax phone number for

the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Status information for

published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see http://pair-direct.uspto.gov. Should

you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a

USPTO Customer Service Representative or access to the automated information

system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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